

Senate Chamber, Atlanta, Georgia  
Thursday, February 2, 2006  
Twelfth Legislative Day

The Senate met pursuant to adjournment at 10:00 a.m. today and was called to order by the President.

Senator Balfour of the 9th reported that the Journal of the previous legislative day had been read and found to be correct.

By unanimous consent, the reading of the Journal was dispensed with.

The Journal was confirmed.

The following message was received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has passed by the requisite constitutional majority the following Bills of the House:

HB 101. By Representatives Brooks of the 63rd, Cummings of the 16th and Williams of the 89th:

A BILL to be entitled an Act to amend Article 5 of Chapter 17 of Title 47 of the Official Code of Georgia Annotated, relating to service creditable in the Peace Officers' Annuity and Benefit Fund, so as to provide for creditable service for certain prior service; to provide for an employee's contribution; to provide for application and conditions; to provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 718. By Representative Lindsey of the 54th:

A BILL to be entitled an Act to amend Article 4 of Chapter 18 of Title 15 of the Official Code of Georgia Annotated, relating to pretrial intervention and diversion programs, so as to allow certain courts to create and administer pretrial intervention and diversion programs; to provide for court costs; to provide for related matters; to repeal conflicting laws; and for other purposes.

- HB 941. By Representatives Benton of the 31st, England of the 108th, Bearden of the 68th, Mosley of the 178th, Maddox of the 172nd and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 13 of Title 45 of the Official Code of Georgia Annotated, relating to the Division of Archives and History, so as to make legislative findings; to recognize the religious heritage of America; to direct the Secretary of State to prepare documents relative to that heritage; to authorize counties to post documents relative to that heritage for education; to direct the Attorney General to defend counties who display documents relative to the religious heritage of America; to set forth the text relative to the religious heritage of America; to repeal conflicting laws; and for other purposes.

- HB 989. By Representatives Fleming of the 117th, Willard of the 49th, Ralston of the 7th and Hatfield of the 177th:

A BILL to be entitled an Act to amend Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to clerks of superior courts, so as to change sunset dates for real estate or personal property filing fees; to change a sunset date relating to the state-wide uniform automated information system; to change a sunset date relating to collection and remittance of real estate or personal property filing fees; to provide for related matters; to repeal conflicting laws; and for other purposes.

- HB 1020. By Representatives Bridges of the 10th, Meadows of the 5th, Brooks of the 63rd, Cummings of the 16th and Coleman of the 97th:

A BILL to be entitled an Act to amend Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, so as to insert language emphasizing that retirement allowances in several public retirement systems shall not become effective prior to the month following the member's final month of employment; to provide that the trustees of the Georgia Defined Contribution Plan shall establish the amount below which a departing member must withdraw his or her contributions; to provide for gender neutrality; to repeal conflicting laws; and for other purposes.

- HB 1122. By Representatives Ray of the 136th and James of the 135th:

A BILL to be entitled an Act to amend an Act providing for a homestead exemption from Peach County School District ad valorem taxes for educational purposes in the amount of \$20,000.00 of the assessed value of the homestead for certain residents of that school district whose annual

income does not exceed \$20,000.00 and who are 65 years of age or older or disabled, approved April 1, 1995 (Ga. L. 1995, p. 4181), so as to increase the amount of such exemption and the income cap applicable to such exemption; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 1124. By Representatives England of the 108th and Benton of the 31st:

A BILL to be entitled an Act to provide an additional homestead exemption from Barrow County school district ad valorem taxes for educational purposes in the amount of \$60,000.00 of the assessed value of the homestead after a four-year phase-in period for residents of that school district who are 62 years of age or over and whose federal total income does not exceed certain federally specified poverty guidelines; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 1132. By Representatives Forster of the 3rd, Neal of the 1st and Dickson of the 6th:

A BILL to be entitled an Act to amend an Act placing the judge of the probate court and the clerk of the Superior Court of Catoosa County, Georgia, on an annual salary in lieu of fees, approved February 20, 1959 (Ga. L. 1959, p. 2047), as amended, so as to increase the clerical help allowance of the clerk of the Superior Court of Catoosa County; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 1136. By Representatives Floyd of the 147th and James of the 135th:

A BILL to be entitled an Act to authorize the Magistrate Court of Dooly County to charge a technology fee for each civil case filed and criminal fine imposed; to specify the uses to which said technology fees may be put; to provide for review and reports; to provide for adjustment of such fee; to provide an effective date; to repeal conflicting laws; and for other purposes.

The following Senate legislation was introduced, read the first time and referred to committee:

SB 498. By Senators Cagle of the 49th and Adelman of the 42nd:

A BILL to be entitled an Act to amend Chapter 25 of Title 33 of the Official Code of Georgia Annotated, relating to life insurance, so as to provide that no insurer offering life insurance coverage to citizens of this state shall deny or refuse to accept an application for life insurance; refuse to issue or renew a contract of life insurance; cancel, restrict, or otherwise terminate a contract of life insurance; or charge a different rate for the same life insurance coverage, based upon an applicant's or insured's past or future travel to the State of Israel; to provide for certain exceptions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Insurance and Labor Committee.

SB 499. By Senators Cagle of the 49th and Stephens of the 27th:

A BILL to be entitled an Act to amend Chapter 41 of Title 43 of the Official Code of Georgia Annotated, relating to residential and general contractors, so as to change certain provisions relating to creation of the State Licensing Board for Residential and General Contractors, membership, divisions, vacancies, qualifications, terms, and meetings; to change certain provisions relating to appointment of members, chairperson, meetings and quorums, and assistance from professional licensing boards division; to repeal conflicting laws; and for other purposes.

Referred to the Regulated Industries and Utilities Committee.

SB 500. By Senators Stephens of the 27th, Wiles of the 37th, Staton of the 18th and Hill of the 32nd:

A BILL to be entitled an Act to provide a short title; to amend Part 5 of Article 9 of Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to electronic recording voting systems, so as to require all electronic recording voting systems to produce a permanent paper record of the votes recorded on such systems for each voter; to provide that voters have an opportunity to verify such record after voting; to provide for certain storage devices for such systems; to provide that such paper records be retained for use in recounts and election challenge proceedings; to provide for procedures for voting on electronic recording voting systems; to provide for a pilot program during the

2006 November general election and any runoff therefrom in certain counties; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations (General) Committee.

SB 501. By Senators Shafer of the 48th, Reed of the 35th, Moody of the 56th, Zamarripa of the 36th, Tate of the 38th and others:

A BILL to be entitled an Act to amend an Act to supplement the salaries of the judges of the Superior Court of Fulton County, approved March 8, 1945 (Ga. L. 1945, p. 1076), as amended, so as to increase the amount of such supplement; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

SB 502. By Senators Hamrick of the 30th, Carter of the 13th, Smith of the 52nd, Hill of the 32nd and Wiles of the 37th:

A BILL to be entitled an Act to provide a comprehensive revision, modernization, and reform of the laws of this state relating to operating motor vehicles while under the influence of alcohol, drugs, or other substances; to amend Title 40 of the O.C.G.A., relating to motor vehicles and traffic, so as to provide legislative intent; to prohibit the operation of motor vehicles in this state while under the influence of alcohol, drugs, or other substances; to provide for implied consent to chemical testing; to provide definitions; to provide for chemical testing of persons suspected of driving under the influence of alcohol, drugs, or other substances; to provide for the procedures to obtain and perform such tests; to provide for the administration of certain warnings with regard to such tests; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

SB 503. By Senators Hamrick of the 30th and Hill of the 4th:

A BILL to be entitled an Act to amend Chapter 21A of Title 15, Title 17, and Code Section 42-8-34.1 of the O.C.G.A., relating respectively to judicial accounting, criminal procedure, and to legal defense for indigents, requirements for revocation of probated or suspended sentence, so as to change certain provisions relating to the Georgia Public Defender Standards Council and the provision of legal services to indigent persons; to clarify that the

application fee for indigent defense services is not a prerequisite to obtaining legal services; to specify the types of standards that shall be submitted to the General Oversight Committee for the Georgia Public Defender Standards Council; to change certain provisions relating to the budget for the Office of the Georgia Capital Defender; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 504. By Senator Balfour of the 9th:

A BILL to be entitled an Act to amend Code Section 50-16-38 of the Official Code of Georgia Annotated, relating to acquisition of state property through the State Properties Commission, so as to provide that certain state entities shall sell and make long-term leases of property through the State Properties Commission; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the State Institutions and Property Committee.

SB 505. By Senators Balfour of the 9th, Unterman of the 45th and Shafer of the 48th:

A BILL to be entitled an Act to amend Code Section 7-1-1001 of the Official Code of Georgia Annotated, relating to exemptions for certain persons from the requirement of obtaining a mortgage broker or mortgage lender license, so as to exempt certain exclusive agents of licensed mortgage brokers or lenders; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Banking and Financial Institutions Committee.

SR 785. By Senators Johnson of the 1st, Staton of the 18th, Williams of the 19th, Thomas of the 54th and Balfour of the 9th:

A RESOLUTION creating a Joint Comprehensive State Trauma Services Study Committee; and for other purposes.

Referred to the Health and Human Services Committee.

SR 786. By Senators Butler of the 55th, Brown of the 26th, Miles of the 43rd, Zamarripa of the 36th, Fort of the 39th and others:

A RESOLUTION creating the Senate Equal Payday Study Committee; and for other purposes.

Referred to the Insurance and Labor Committee.

SR 789. By Senators Stephens of the 27th and Pearson of the 51st:

A RESOLUTION urging the Department of Community Health and the Health Strategies Council to revise Perinatal (Obstetric/Newborn Level 1) Service Area 3 to include Forsyth County; and for other purposes.

Referred to the Health and Human Services Committee.

SR 790. By Senators Adelman of the 42nd, Brown of the 26th, Jones of the 10th, Tate of the 38th, Stoner of the 6th and others:

A RESOLUTION proposing an amendment to the Constitution so as to provide that all records and meetings of any government, authority, or private corporation performing a public purpose shall be open to the public; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

Referred to the Rules Committee.

SR 793. By Senators Hamrick of the 30th and Smith of the 52nd:

A RESOLUTION ratifying the initial minimum standard promulgated by the Georgia Public Defender Standards Council, hereinafter referred to as the "Standards Council," entitled "Standard for Removal of a Circuit Public Defender for Cause Pursuant to O.C.G.A. § 17-12-20," hereinafter referred to as the "Standard for Removal for Cause"; to provide for an effective date; and for other purposes.

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The following House legislation was read the first time and referred to committee:

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Referred to the Retirement Committee.

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a sunset date relating to the state-wide uniform automated information system; to change a sunset date relating to collection and remittance of real estate or personal property filing fees; to provide for related matters; to repeal conflicting laws; and for other purposes.

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Referred to the State and Local Governmental Operations Committee.

HB 1124. By Representatives England of the 108th and Benton of the 31st:

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and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

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HB 1136. By Representatives Floyd of the 147th and James of the 135th:

A BILL to be entitled an Act to authorize the Magistrate Court of Dooly County to charge a technology fee for each civil case filed and criminal fine imposed; to specify the uses to which said technology fees may be put; to provide for review and reports; to provide for adjustment of such fee; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

The following committee reports were read by the Secretary:

Mr. President:

The Public Safety and Homeland Security Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 373	Do Pass
SB 381	Do Pass as amended
SB 400	Do Pass

Respectfully submitted,  
Senator Kemp of the 46th District, Chairman

Mr. President:

The Rules Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SR 737      Do Pass

Respectfully submitted,  
Senator Balfour of the 9th District, Chairman

Mr. President:

The Special Judiciary Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

HB 804      Do Pass  
SB 465      Do Pass

SB 466      Do Pass  
SB 467      Do Pass

Respectfully submitted,  
Senator Meyer von Bremen of the 12th District, Chairman

Mr. President:

The Transportation Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

HR 1041      Do Pass  
SB 453      Do Pass as amended

SR 639      Do Pass  
SR 718      Do Pass

Respectfully submitted,  
Senator Stephens of the 27th District, Chairman

The following legislation was read the second time:

SB 79          SB 396          SB 425          SB 442          SB 450          SB 468

Senator Stephens of the 27th asked unanimous consent that Senator Starr of the 44th be excused. The consent was granted, and Senator Starr was excused.

Senator Chance of the 16th asked unanimous consent that Senator Seabaugh of the 28th be excused. The consent was granted, and Senator Seabaugh was excused.

Senator Williams of the 19th asked unanimous consent that Senator Hill of the 4th be excused. The consent was granted, and Senator Hill was excused.

Senator Tarver of the 22nd asked unanimous consent that Senator Powell of the 23rd be excused. The consent was granted, and Senator Powell was excused.

Senator Brown of the 26th asked unanimous consent that Senator Hooks of the 14th be excused. The consent was granted, and Senator Hooks was excused.

Senator Brown of the 26th asked unanimous consent that Senator Harbison of the 15th be excused. The consent was granted, and Senator Harbison was excused.

Senator Meyer von Bremen of the 12th asked unanimous consent that Senator Thompson of the 33rd be excused. The consent was granted, and Senator Thompson was excused.

The roll was called and the following Senators answered to their names:

Adelman	Henson	Stephens
Balfour	Hill,Judson	Tarver
Brown	Hudgens	Tate
Bulloch	Johnson	Thomas,D
Butler	Jones	Thomas,R
Carter	Kemp	Thompson,C
Chance	Miles	Tolleson
Chapman	Moody	Unterman
Douglas	Mullis	Weber
Goggans	Reed	Whitehead
Golden	Rogers	Wiles
Hamrick	Seay	Williams
Harp	Smith	Zamarripa
Heath	Staton	

Not answering were Senators:

Cagle	Fort	Grant
Harbison (Excused)	Hill, Jack (Excused)	Hooks (Excused)
Meyer Von Bremen	Pearson	Powell (Excused)
Schaefer	Seabaugh (Excused)	Shafer, D
Starr (Excused)	Stoner	Thompson, S (Excused)

The following members were off the floor of the Senate when the roll was called and wish to be recorded as present:

Senators:           Meyer von Bremen           Shafer           Stoner

The members pledged allegiance to the flag.

Senator Unterman of the 45th introduced the chaplain of the day, Pastor Andrew Henderson of Dacula, Georgia, who offered scripture reading and prayer.

Senator Harp of the 29th introduced the doctor of the day, Dr. Mike Hagues.

Senators Tolleson of the 20th and Meyer Von Bremen of the 12th recognized representatives of Georgia's Community Health Centers, commended by SR 66, adopted previously.

Senators Hill of the 32nd and Adelman of the 42nd recognized representatives of the State of Israel, commended by SR 763, adopted previously. Consul General of Israel, Shmuel Ben Shmuel addressed the Senate briefly.

The following resolution was read and adopted:

SR 787. By Senators Johnson of the 1st, Thomas of the 2nd, Mullis of the 53rd, Balfour of the 9th, Schaefer of the 50th and others:

A RESOLUTION commending Ms. Paula Deen; and for other purposes.

The President along with Senators Johnson of the 1st and Thomas of the 2nd introduced Paula Deen, commended by SR 787. Paula Deen addressed the Senate briefly.

Senator Seay of the 34th recognized Gail Davenport and representatives of the Clayton County Ecumenical Service to honor Dr. Martin Luther King, Jr., commended by SR 651, adopted previously. Gail Davenport addressed the Senate briefly.

Senator Seay of the 34th recognized Eddie White, President of the Arnold-Fountain Professional Club, commended by SR 681, adopted previously. Eddie White addressed the Senate briefly.

Senator Seay of the 34th introduced Joseph H. Beasley, commended by SR 650, adopted previously. Joseph H. Beasley addressed the Senate briefly.

The following resolutions were read and adopted:

SR 788. By Senators Hudgens of the 47th and Kemp of the 46th:

A RESOLUTION commending the students of Fort Yargo Elementary School; and for other purposes.

SR 791. By Senator Chance of the 16th:

A RESOLUTION commending Keegan P. Hill; and for other purposes.

SR 792. By Senator Whitehead, Sr. of the 24th:

A RESOLUTION congratulating and commending the Washington-Wilkes Tigers football team and its coach as a result of their fantastic season that led them to the Georgia Class A State Final; and for other purposes.

SENATE RULES CALENDAR  
THURSDAY, FEBRUARY 2, 2006  
TWELFTH LEGISLATIVE DAY

- SB 435 County Directors of Family/Children Services; appointment; change provisions (H&HS-54th)
- SR 655 CA: Lottery Funds; reserved for HOPE Scholarship Program; tuition grants; loans; citizens to attend colleges/universities within state (H ED-13th)
- SB 440 Lottery Funds; eliminate Construction Reserve Trust Fund; Board of Education; funds to local units of admin.; electronic technology (H ED-30th)
- SB 408 Preservation of Evidence; nationals of foreign states; not lawfully admitted for permanent resident of U.S. (Substitute)(JUDY-32nd)
- SB 398 Criminal Proceedings; plea of insanity; revise procedures of psychiatric evaluations (JUDY-29th)
- SB 394 Computer System Security; persons falsely representing to be a business; prohibit; definitions; penalties/sanctions (S&T-18th)
- SB 241 Electronic Records/Signatures; legal effects; notarized documents; provisions (S&T-48th)

SB 202      Budgets/Audits; local government; grant requirements; subrecipients  
(SLGO(G)-37th)

Respectfully submitted,

/s/   Balfour of the 9th, Chairman  
Senate Rules Committee

Senator Williams of the 19th moved to engross SR 655, which was on today's Senate Rules Calendar.

Senator Brown of the 26th objected.

On the motion a roll call was taken, and the vote was as follows:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	N Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	N Jones	N Tarver
Y Carter	N Kemp	N Tate
Y Chance	N Me V Bremen	Y Thomas,D
N Chapman	N Miles	N Thomas,R
Y Douglas	Y Moody	N Thompson,C
N Fort	Y Mullis	N Thompson,S
Y Goggans	Y Pearson	Y Tolleson
N Golden	N Powell	Y Unterman
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 32, nays 23, the motion prevailed; and SR 655 was engrossed.

Senator Williams of the 19th moved to engross SB 440, which was on today's Senate Rules Calendar.

Senator Brown of the 26th objected.

On the motion a roll call was taken, and the vote was as follows:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	N Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Cagle	N Jones	N Tarver
Y Carter	Kemp	N Tate
Y Chance	N Me V Bremen	Y Thomas,D
N Chapman	N Miles	N Thomas,R
Y Douglas	Y Moody	N Thompson,C
N Fort	Mullis	N Thompson,S
Y Goggans	Y Pearson	Y Tolleson
N Golden	N Powell	Y Unterman
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the motion, the yeas were 30, nays 22, the motion prevailed; and SB 440 was engrossed.

Senator Chance of the 16th asked unanimous consent that Senator Douglas of the 17th be excused. The consent was granted, and Senator Douglas was excused.

Senator Whitehead of the 24th asked unanimous consent that Senator Cagle of the 49th be excused. The consent was granted, and Senator Cagle was excused.

The following legislation was read the third time and put upon its passage:

SB 435. By Senators Thomas of the 54th and Harp of the 29th:

A BILL to be entitled an Act to amend Code Section 49-3-3 of the Official Code of Georgia Annotated, relating to county directors of family and children services, so as to change certain provisions relating to the appointment of the county directors; to repeal conflicting laws; and for other purposes.

The report of the committee, which was favorable to the passage of the bill, was agreed to.



On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
E Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
E Douglas	Y Moody	Y Thompson,C
Y Fort	Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 52, nays 0.

SB 435, having received the requisite constitutional majority, was passed.

SR 655. By Senators Carter of the 13th, Harp of the 29th, Hamrick of the 30th, Kemp of the 46th, Chance of the 16th and others:

### A RESOLUTION

Proposing an amendment to the Constitution of Georgia so as to protect lottery funds so that they may be reserved only for the HOPE Scholarship Program and other tuition grants, scholarships, or loans to enable citizens of this state to attend colleges and universities within this state, for voluntary pre-kindergarten, and for educational shortfall reserves; to provide for submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

### SECTION 1.

Article I, Section II, Paragraph VIII of the Constitution is amended by striking subparagraph (c) and inserting in lieu thereof the following:

"(c) The General Assembly may by law provide for the operation and regulation of a lottery or lotteries by or on behalf of the state and for any matters relating to the purposes or provisions of this subparagraph. Proceeds derived from the lottery or lotteries operated by or on behalf of the state shall be used to pay the operating expenses of the lottery or lotteries, including all prizes, without any appropriation required by law, and for educational programs and purposes as hereinafter provided. Lottery proceeds shall not be subject to Article VII, Section III, Paragraph II; Article III, Section IX, Paragraph VI(a); or Article III, Section IX, Paragraph IV(c), except that the net proceeds after payment of such operating expenses shall be subject to Article VII, Section III, Paragraph II. Net proceeds after payment of such operating expenses shall be separately accounted for and shall be specifically identified by the Governor in his annual budget presented to the General Assembly as a separate budget category entitled 'Lottery Proceeds' and the Governor shall make specific recommendations as to educational programs and educational purposes to which said net proceeds shall be appropriated. In the General Appropriations Act adopted by the General Assembly, the General Assembly shall appropriate all net proceeds of the lottery or lotteries by such separate budget category to educational programs and educational purposes. Such net proceeds shall be used to support improvements and enhancements for educational programs and purposes and such net proceeds shall be used to supplement, not supplant, non-lottery educational resources for educational programs and purposes. The educational programs and educational purposes for which proceeds may be so appropriated shall include only the following:

(1) Tuition grants, scholarships, or loans to citizens of this state to enable such citizens to attend colleges and universities located within this state, regardless of whether such colleges or universities are operated by the board of regents, or to attend institutions operated under the authority of the Department of Technical and Adult Education; (2) Voluntary pre-kindergarten; and

(3) One or more educational shortfall reserves in a total amount of not less than 10 percent of the net proceeds of the lottery for the preceding fiscal year;

~~(4) Costs of providing to teachers at accredited public institutions who teach levels K-12, personnel at public postsecondary technical institutes under the authority of the Department of Technical and Adult Education, and professors and instructors within the University System of Georgia the necessary training in the use and application of computers and advanced electronic instructional technology to implement interactive learning environments in the classroom and to access the state wide distance learning network; and~~

~~(5) Capital outlay projects for educational facilities;~~

~~provided, however, that no funds shall be appropriated for the items listed in paragraphs (4) and (5) of this subsection until all persons eligible for and applying for assistance as provided in paragraph (1) of this subsection have received such assistance, all approved pre-kindergarten programs provided for in paragraph (2) of this subsection have been fully funded, and the education shortfall reserve or reserves provided for in paragraph (3) of this subsection have been fully funded."~~

**SECTION 2.**

The above proposed amendment to the Constitution shall be published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above proposed amendment shall have written or printed thereon the following:

"( ) YES Shall the Constitution of Georgia be amended to protect lottery funds so  
( ) NO that they may be reserved only for the HOPE Scholarship Program and other tuition grants, scholarships, or loans to enable citizens of this state to attend colleges and universities within this state; for voluntary pre-kindergarten; and for educational shortfall reserves?"

All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes." All persons desiring to vote against ratifying the proposed amendment shall vote "No." If such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall become a part of the Constitution of this state.

The report of the committee, which was favorable to the adoption of the resolution, was agreed to.

On the adoption of the resolution proposing an amendment to the Constitution, a roll call was taken, and the vote was as follows:

N Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	N Starr
N Brown	N Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	N Stoner
Y Cagle	N Jones	N Tarver
Y Carter	Y Kemp	N Tate
Y Chance	N Me V Bremen	Y Thomas,D
Y Chapman	N Miles	N Thomas,R
Y Douglas	Y Moody	N Thompson,C
N Fort	Y Mullis	N Thompson,S
Y Goggans	Y Pearson	Y Tolleson
N Golden	Y Powell	Y Unterman
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 35, nays 20.

SR 655, having failed to receive the requisite two-thirds constitutional majority, was lost.

Senator Williams of the 19th gave notice that at the proper time he would move that the Senate reconsider its action on SR 655.

SB 440. By Senators Hamrick of the 30th, Harp of the 29th, Kemp of the 46th, Shafer of the 48th and Schaefer of the 50th:

A BILL to be entitled an Act to amend Title 20 of the O.C.G.A., relating to education, so as to eliminate the to Construction Reserve Trust Fund and the appropriation of lottery funds to the fund; to eliminate the use of lottery funds for teacher training in computers and technology; to eliminate the use of lottery funds by the board of regents for training professors and instructors in computers and technology; to eliminate the use of lottery funds by the Department of Technical and Adult Education for training teachers in computers and technology; to amend Code Section 50-27-3 of the O.C.G.A., relating to definitions regarding the lottery for education, so as to provide that the term "educational purposes and programs" shall not include capital outlay projects for educational facilities and teacher training in computers and technology; to provide for related matters; to provide for a contingent effective date; to repeal conflicting laws; and for other purposes.

Senator Cagle of the 49th moved the previous question.

On the motion, the yeas were 24, nays 15, the motion prevailed; and the previous question was ordered.

The report of the committee, which was favorable to the passage of the bill, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
N Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	N Tate
Y Chance	N Me V Bremen	Y Thomas,D
Y Chapman	N Miles	N Thomas,R

Y Douglas	Y Moody	N Thompson,C
N Fort	Y Mullis	Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
N Henson	Y Shafer,D	

On the passage of the bill, the yeas were 45, nays 9.

SB 440, having received the requisite constitutional majority, was passed.

Senator Eric Johnson, President Pro Tempore, assumed the Chair.

Senator Brown of the 26th asked unanimous consent that Senator Starr of the 44th be excused. The consent was granted, and Senator Starr was excused.

Senator Pearson of the 51st asked unanimous consent that Senator Hamrick of the 30th be excused. The consent was granted, and Senator Hamrick was excused.

Senator Rogers of the 21st asked unanimous consent that Senator Tolleson of the 20th be excused. The consent was granted, and Senator Tolleson was excused.

SB 408. By Senators Hill of the 32nd, Rogers of the 21st and Smith of the 52nd:

A BILL to be entitled an Act to amend Code Section 24-10-130 of the Official Code of Georgia Annotated, relating to when depositions for preservation of evidence in criminal proceedings may be taken, so as to provide for the preservation of evidence of certain nationals of foreign states who have not been lawfully admitted for permanent residence in the United States; to provide for other matters relative to the foregoing; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Senate Judiciary Committee offered the following substitute to SB 408:

#### A BILL TO BE ENTITLED AN ACT

To amend Code Section 24-10-130 of the Official Code of Georgia Annotated, relating to when depositions for preservation of evidence in criminal proceedings may be taken, so

as to provide for the preservation of evidence of certain nationals of foreign states who have not been lawfully admitted for permanent residence in the United States; to provide for other matters relative to the foregoing; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 24-10-130 of the Official Code of Georgia Annotated, relating to when depositions for preservation of evidence in criminal proceedings may be taken, is amended by striking subsection (b) and inserting in its place a new subsection (b) to read as follows:

"(b) The court shall not order the taking of the witness's testimony, except as provided in paragraph (2) of subsection (a) of this Code section, unless it appears to the satisfaction of the court that the testimony of the witness is material to the case and the witness:

- (1) Is in imminent danger of death;
- (2) Has been threatened with death or great bodily harm because of the witness's status as a potential witness in a criminal trial or proceeding;
- (3) Is about to leave the state and there are reasonable grounds to believe that such witness will be unable to attend the trial;
- (4) Is so sick or infirm as to afford reasonable grounds to believe that such witness will be unable to attend the trial; ~~or~~
- (5) Is being detained as a material witness and there are reasonable grounds to believe that the witness will flee if released from detention; or
- (6) Is a national of a foreign state who has not been lawfully admitted for permanent residence in the United States. For purposes of this paragraph, the terms 'national,' 'foreign state,' and 'lawfully admitted for permanent residence' shall have the meaning as provided in 8 U.S.C. Section 1101."

**SECTION 2.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

**SECTION 3.**

All laws and parts of laws in conflict with this Act are repealed.

On the adoption of the substitute, the yeas were 35, nays 0, and the committee substitute was adopted.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	E Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 49, nays 0.

SB 408, having received the requisite constitutional majority, was passed by substitute.

SB 398. By Senator Harp of the 29th:

A BILL to be entitled an Act to amend Code Section 17-7-131 of the Official Code of Georgia Annotated, relating to proceedings upon a plea of insanity or mental incompetency at the time of a crime, so as to change certain provisions relating to the court's instructions; to revise procedures related to psychiatric evaluations of defendants; to provide for a timeframe for forwarding the examination report to the Department of Corrections; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the committee, which was favorable to the passage of the bill, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Thomas,R
Y Douglas	Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	E Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
E Harbison	N Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 47, nays 1.

SB 398, having received the requisite constitutional majority, was passed.

SB 394. By Senators Staton of the 18th, Shafer of the 48th, Chance of the 16th, Douglas of the 17th, Chapman of the 3rd and others:

A BILL to be entitled an Act to amend Article 6 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to computer systems security, so as to prohibit persons from using the Internet or electronic mail to induce another to provide identifying information by falsely representing themselves to be a business without the authority or approval of the business; to provide definitions; to provide for penalties and sanctions; to provide for civil actions; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the committee, which was favorable to the passage of the bill, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:



Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	E Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 50, nays 0.

SB 394, having received the requisite constitutional majority, was passed.

SB 241. By Senators Shafer of the 48th, Staton of the 18th, Cagle of the 49th, Heath of the 31st and Douglas of the 17th:

A BILL to be entitled an Act to amend Chapter 12 of Title 10 of the Official Code of Georgia Annotated, relating to electronic records and signatures, so as change provisions relating to the legal effect of electronic records and signatures; to change provisions relating to notarized documents; to amend Code Section 15-10-53 of the Official Code of Georgia Annotated, relating to filing documents by electronic means, so as to correct a cross-reference; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the committee, which was favorable to the passage of the bill, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
Brown	Y Hooks	Y Staton

Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	E Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 50, nays 0.

SB 241, having received the requisite constitutional majority, was passed.

Senator Butler of the 55th asked unanimous consent that Senator Brown of the 26th be excused. The consent was granted, and Senator Brown was excused.

SB 202. By Senator Wiles of the 37th:

A BILL to be entitled an Act to amend Article 1 of Chapter 81 of Title 36 of the Official Code of Georgia Annotated, relating to local government budgets and audits, so as to provide for additional grant certification requirements with respect to subrecipients and units of local government; to repeal conflicting laws; and for other purposes.

The report of the committee, which was favorable to the passage of the bill, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	E Starr
E Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Johnson (PRS)	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate

Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	E Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
E Hamrick	Y Rogers	Y Whitehead
E Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 50, nays 0.

SB 202, having received the requisite constitutional majority, was passed.

Senator Williams of the 19th moved that the Senate adjourn until 9:00 a.m. Friday, February 3, 2006.

The motion prevailed, and Senator Eric Johnson, President Pro Tempore, announced the Senate adjourned at 1:59 p.m.